PETITION FOR	ZONING VARIANCE 85-2-XA	
TO THE ZONING COMMISSIONER OF BA		Control of the control of
described in the description and plat attach	he property situate in Baltimore County and which is ned hereto and made a part hereof, hereby petition for a	
	v an antique shop in a dwelling in a	Committee of the Commit
	ide set backsof 0.5 feet and 15 feet	
in lieu of 50 feet respectively an		*
following reasons: (indicate hardship or pro-	nty, to the Zoning Law of Baltimore County; for the actical difficulty)	THE PROPERTY COM
Practical difficulty because lot i existing dwelling of lot.	is 0.43 of an acre and house is	THE PERSONAL PROPERTY.
* to the centerline of the street		THE RESERVE OF THE PERSON NAMED IN COLUMN TWO IS NOT THE PERSON NAMED IN COLUMN TWO IS NOT THE PERSON NAMED IN
		Property of the second
_	sed as prescribed by Zoning Regulations.	en ja oli läytä – ja oli läytä Esten ja oli läinen aanopaa yhdistä
I, or we, agree to pay expenses of above petition, and further agree to and are to be Baltimore County adopted pursuant to the 2	ve Variance advertising, posting, etc., upon filing of this e bound by the zoning regulations and restrictions of Zoning Law For Baltimore County.	و دروده المواهدة الم
	I/We do solemnly declare and affirm,	Control of the State
	under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.	e annica de desergia de la compansión de
Contract Purchaser: Mr. James F. Stygler	Legal Owner(s):	e segunda de situa e
(Type or Print Name)	The State of the Cole (Type or Print Name)	feshi nin Oli indica
Signaiare F.	Signature S/2	A SECUL
519 PICCADILLY Rd.	CATHERINE C COLE	
Towson, md. 21204	Catterine C Cole	
Attorney for Petitioner:	Signature BY:	
(Type or Print Name)	21510 York Rd 329-6519 Address Phone No.	
Signature	10. 1 Pl: 1. D = 10	
,	•	
Address	tract purchaser or representative to be contacted  Mr. James F. Stygler	
Address	Mr. James F. Stygler  Name 1: Cadilly Rd. 357-4134	, , , , , , , , , , , , , , , , , , , ,
Address	tract purchaser or representative to be contacted  Mr. James F. Stygler  Name 519 Ficcadilly Rd. 357-4134  Towson, Md. 21204 825-5022	
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City and State  Attorney's Telephone No.:  ORDERED By The Zoning Commission of	tract purchaser or representative to be contacted Mr. James P. Stygler  Signature 19. Stygler  Signature 20. Stygl	

PETITION FOR SPECIAL EXCEPTION 85-2-XA TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY The undersigned, legal owner(s) of the property rituate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Antique shop/ in a dwelling Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of at Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and a 3 to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser: Legal Owner(s) Towsen, md. 21204 MOVED TO: Attorney for Petitioner: 21510 YORK RD (Type or Print Name MARYLAND LINE, MO 21/05 Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted Mr. James F. Stygler Name 519 Piccadilly Rd. Towson, Md. 21204 825-5029 357-4/36 ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ 22nd \_\_\_\_ day of \_\_\_\_\_ May\_\_\_\_, 19\_84, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the \_\_\_\_\_ 2nd day of \_\_\_\_ July \_\_\_\_, 19 84 , at 10:15 o'clock

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE June 26, 1984

Z.C.O.—No. 1

Nicholas B. Commodari Chairman MEMBERS

Bureau or Engineering Department of Traffic Engineering State Roads Commissio Bureau of Fire Prevention Health Department Project Planning Building Department Board of Education Zoning Administration

Industrial Development

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Mr. & Mrs. David
21510 York Road Mr. & Mrs. David L. Cole Maryland Line, Maryland 21105

RE: Item No. 290 - Case No. 85-2-XA Petitioner - David L. Cole, et ux Special Exception & Variance Petitions

Dear Mr. & Mrs. Cole:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your proposal to convert a portion of the existing dwelling to an antique shop, this combination hearing is required.

As I discussed with your surveyor, if five parking spaces are proposed, paving and screening are not required unless the site plan indicates more than this number. It was decided at that time that the site plan would be revised to indicate the minimum number of spaces and adequate maneuvering area on the site; i.e., 20 foot driveway.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a bearing scheduled accordingly. hearing scheduled accordingly.

> Very truly yours, Techalas B. Commadare, Loc NICHOLAS B. COMMODARI, Chairman Zoning Plans Advisory Committee

> > A CONTRACTOR

NBC:bsc Enclosures

cc: Mr. James Stygler, 519 Piccadilly Road 21204 Gerhold, Cross & Etzel, 412 Delaware Avenue 21204

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE PETITION AND SITE PLAN

INTER-OFFICE CORRESPONDENCE Arnold Jablon TO \_\_Zoning Commissioner\_ Date June 14, 1984 Norman E. Gerber, Director FROM Office of Planning and Zoning

BALTIMORE COUNTY, MARYLAND

The one-acre minimum lot size is set forth in Section 4028.1 of the <u>Baltimore County Zoning Regulations</u>. It would not appear to be a part of area regulations, but rather a regulation governing use. As such, this office has some question as to whether or not such a variance can be granted.

David L. Cole, et ux

Office of Planning and Zoning

NEG/JGH/sf

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

RR-NE Key Sheet 152 NW 8 Pos. Sheet NW 38B Topo 3 Tax Map

June 1, 1984

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

> Re: Item #290 (1983-1984) Property Owner: David L. Cole, et ux W/S York Rd. 1400° S. from centerline Freeland Rd. Acres: 0.43 District: 7th

Dear Mr. Jablon:

HARRY J. PISTEL, P. E. DIRECTOR

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject

General:

Baltimore County highway and utility improvements are not directly involved.

York Road (Md. 45) is a State Road. All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

Development of this property through stripping, grading and statilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 290 (1983-1984).

ROBERT A. MORTON, P.E., Chief Bureau of Public Services

RAM: EAM: FWR: 55



Maryland Department of Transportation

Lewell K. Bridwell Hal Kassoff

May 7, 1984

Mr. A. Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

Attention: Mr. N. Commodari

ITEM: 290. Property Owner: David L. Cole, et ux Location: W/S York Road Route 45, 1400 S. from c/1 Fredland Road Existing Zoning: R.C. 5 Proposed Zoning: Variance for a side yard setback of 0.5' and 15' in lieu of the required 50' respectively and a front yard setback of 38 in lieu of the required 75°. Special Exception for an antique shop in an R.C. 5 zone on a .43 acre lot in lieu of the required 1 acre. Acres: 0.43 District: 7th

Re: ZAC Meeting of 5-1-84

Dear Mr. Jablon:

On review of the site plan of 4-16-84 and field inspection, the State Highway Administration offers the following comments.

We find the proposal for a Special Exception for an Antique Shop generally acceptable.

However, parking requirements for the Antique Shop and residence must be by way of a 12' alley through deed.

> My telephone number is (301) 659-1350 eletypewriter for Impaired Hearing or Speech 3-7555 Baltimore Metro -- 565-0451 D.C. Metro -- 1-800-492-5062 Statewide Toll Fre P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

BALTIMORE COUNTY DEPARTMENT OF HEAPTH Zoning Commissioner Office of Planning and Zoning ZONING DEPARTMENT County Office Building Towson, Maryland 21204 Zoning Item # 290, Zoning Advisory Committee Meeting of May 1, 1984 Property Owner: David L. Cole, et ux Location: W/S York Read District 7 Water Supply \_\_\_\_\_\_ Sewage Disposal \_\_\_\_\_\_\_ private COMMENTS ARE AS FOLLOWS: ( ) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval. ( ) Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.

( ) A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere. ( ) A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more. ( ) Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval. ( ) Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support ( ) Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health. ( ) If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance

with Water Resources Administration requirements.

SS 20 1082 (1)

Pursuant to the advertisement, posting of property, and public rearing on the Petition and it

appearing that strict compliance with the Baltimore County Zoning Regulations would/would net

result in practical difficulty and unreasonable hardship upon the Petitioner(\*) and the granting of

the variance(s) requested will/will not adversely affect the health, safety, and general welfare of

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this

\_\_\_, 19\_\_\_\_\_, that the herein Petition for Variance(s) to permit

్రిల్ బూక్ట్ ఇట్టి కేట్ ఉంటేండుకు సంస్థాన్ కి స్టాఫ్ ఈ

the community, the variance(s) should /should not be granted.

Zoning Item # 290 Zoning Advisory Committee Meeting of May 24 1984 ( ) Prior to razing of existing structure/s, petitioner must contact the Division of Water Quality and Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes. ( ) Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Water Quality and Waste Management at 494-3768. ( ) Soil percolation tests (have been/must be) conducted.
( ) The results are valid until \_\_\_\_\_ Soil percolation test results have expired. Petitioner should contact the Division of Environmental Support Services to determine whether additional tests are required. ( ) Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled. ( ) In accordance with Section 13-117 of the Baltimore County Code, the water well yield test shall be valid until

is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit ( ) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples. ( ) If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. (4) Others This site is served by a drilled well and - sewage disposal system, but ut which appear to be Functioning properly. Ian J. Forgest, Director BUREAU OF ENVIRONMENTAL SERVICES SS 20 1283 (2) R

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it

18 18 July 1

appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning

Regulations

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON MARYLAND 21204-2586
494-4500 PAUL H. REINCKE CHIEF May 9, 1984 Mr. William Hammond Coming Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, Maryland 21204 Attention: Nick Commodari, Chairman 2oning Plans Advisory Committee RE: Property Owner: David L. Cole, et ux Location: W/S York Road 1400 S. from c/l Freeland Road Zoning Agenda: Meeting of 5/1/84 Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property. ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals or \_\_\_\_\_feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. ( ) 2. A second means of vehicle access is required for the site. ( ) 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department. ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. (x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Ccie", 1976 Edition prior ( ) 6. Site plans are approved, as drawn. ( ) 7. The Fire Prevention Bureau has no comments/ at this time. Planding/Group Fire Prevention Bureau Special Inspection Division /mb

Mr. A. Jablon

CL:GW:maw

cc: Mr. J. Ogle

May 7, 1984

Very truly yours,

Charles Lee, Chief

Bureau of Engineering

By: George Wittman

Charle Lee

Access Permits

On the day of inspection we found encroachment of steps

With access to the proposed five (5) spaces by way of

the restricted alley way, the State Highway Administration recommends that patrons use the southwest side of York Road

at #21510 that diminished the alley way to 9'+.

for parking as shown on the site plan.

OFFICE OF PLANNING AND ZONING TOWSON, MARYLAND 21204 Mr. Arnold Jablon Zoning Commissioner County Office Building 4/30/84 Towson, Maryland 21204 Re: Zoning Advisory Meeting of 5-1-84
Item # 2.90 Property Owner: PAULD L. COLE, ET UX Location: W.S Nek. KD. 1400' S. FREELIND RD. The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are There are no site planning factors requiring comment, )A County Review Group Meeting is required. )A County Review Group meeting was held and the minutes will be forward by the Bureau of Public Services. )This site is part of a larger tract; therfore it is defined as a subdivision. The plan must show the entire truct. )A record plat will be required and must be recorded prior o issuance of a building permit. )The access is not satisfactory. The circulation on this site is not satisfactory. )The parking arrangement is not satisfactory. )Parking calculations must be shown on the plan. )This property contains soils which are defined as wetlands, and development on these soils is prohibited. )Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Development of this site may constitute a potential conflict with the Baltimore County Master Plan. )The amended Development Plan was approved by the Planning Board ( )Landscaping should be provided on this site and shown on the plan. )The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service )The property is located in a traffic area controlled by a "D" level traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council. HUST COMPLY WITH STATE HIGHWAY ASMINISTRATION REQUIREMENTS WHO HAS RIGHTS TO USE 12' ALLEY IT IS NOT PART OF PETITIONERS DUINERSHIP.

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610 TED ZALESKI, JR. May 9, 1984 Mr. Arnold Jablon, Zoning Commissioner Office of Planning and Zoning County Office Building Towson, Maryland 21204 Comments on Item # 290 Zoning Advisory Committee Meeting are as follows: Property Gener:
Location:
W/S York Road 1400' S. from c/l Freeland Road
Existing Zoning: R.C. 5
Proposed Zoning: Variance for a side yard setback of 0.5' and 15' in lieu of the required 50' respectively and a front yard setback of 38' in lieu of the required 75'. Special exception for an antique shop in an R.C. 5 zone on a .43 acre lot in lieu of the required 1 acre. All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-82 State of Maryland Code for the Hardicapped and Aged; and other appli-B) A building & other / permits shall be required before beginning construction. C. Residential: Three sets of construction drawings are required to file a parmit application. Architect/Engineer seal is/is not required. Non-reproduced seals and signatures are required on Plans and Technical Data. D. Commercial: Three sets of construction drawings with a Maryland Ragistered Architect or Engineer shall be required to file a permit application. E. An exterior wall arected within 6'0 for Commercial uses or 3'0 for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0 of lot lines. A firewall is required if construction is on the lot line, see Table 401, line 2, Esction Requested variance appears to conflict with the Bultimore County Building Code, Section/s. See comments below; also see Sections 103.1, 103.2 and 103.4 and Section 312.0. G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal. H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401. Comments—Table 505 prohibits "Mercantile Uses" in wood frame structures more than one story unless sprinkled. Another alternative would be a 3 hour fire wall separation between the dwelling area and the proposed shop area. The applicant should contact a Registered Architect or Engineer for professional assistance with the Building Code. Compliance with the State Handicapped

Code is required also.

CEP:es

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be con-

strued as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Flans Review) at 111 W. Chesapeake Ave.,

Charles E. Burnham, Chief Plans Review

W/S York Rd., 1,400' S of the Centerline of Freeland Rd. OF BALTIMORE COUNTY (21510 York Rd.), 7th District :

DAVID L. COLE, et ux, Petitioners: Case No. 85-2-XA

ENTRY OF APPEARANCE

::::::

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

> Phyllix Cole Fredman People's Counsel for Baltimore County

Peter Max Zammerman Deputy People's Counsel Rm. 223, Court House

I HEREBY CERTIFY that on this 13th day of June, 1984, a copy of the foregoing Entry of Appearance was mailed to Mr. and Mrs. David L. Cole, 21510 York Rd., Maryland Line, MD 21105, Petitioners; and Mr. James F. Stygler, 519 Piccadilly Road, Towson, MD 21204, Contract Purchaser.

Peter Max Zummerman



County Board of Appeals of Baltimore County Room 200 Court House (Hearing Room #218) Towson, Maryland 21204 (301) 494-3180 September 7, 1984

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL \$59-79

CASE NO. 85-2-XA

DAVID L. COLE, ET UX

W/S York Rd., 1,400' S. of the c/l of Freeland Rd. (21510 York Rd.)

7th District

SE-Antique shop in a dwelling Var.-Side yard setback

7/9/84 - Z.C.'s Order - GRANTED w/restrictions

ASSIGNED FOR:

THURSDAY, DECEMBER 6, 1984, at 10 a.m. Petitioners (former owners of subj. property)

Jumes F. Stygler

cc: David Cole, et ux

Current owners of subj. property

People's Counsel

Phyllis C. Friedman

Norman Gerber James Hoswell

Arnold Jablon

J⊛an Jung

OF THE APPLICATION OF DAVID L. COLE, ET UX

NO. 85-2-XA

COUNTY BOARD OF APPEALS

BALTIMORE COUNTY

This case comes before the Board of Appeals as an appeal from

the Order and Findings of Fact and Conclusions of Law by the Zoning Commissione of Baltimore County, dated July 9, 1984. The Petitioner, David L. Cole, has sold the subject property to Mr. and Mrs. James F. Stygler. The Styglers wish to convert a portion of the one hundred and fifty year old existing house to an antique shop and seek relief from §1.A.04.2.B.1, pursuant to §502.1; and from §402.B.1 and §1.A.04.3.B.3, pursuant to §307, of the Baltimore County Zoning Regulations (BCZR). The subject property is located on the west side of York Road 1,400 feet south of the centerline of Freeland Road (21510 York Road), in the Seventh Election District of Baltimore County.

In his Order, the Zoning Commissioner granted, with restrictions the requested relief under §502.1 (special exception for use regulations) and §307 (variance from height and area regulations). From this Opinion and Order, an appeal has been brought by the People's Counsel of Baltimore County

At the hearing, the Board received testimony from only one witness, James G. Hoswell of the Office of Planning and Zoning. Otherwise, the parties stipulated as to the testimony heard below before the Zoning Commissioner. In fact, the sole issue raised by the People's Counsel by this appeal is as to the propriety of the Petitioner's seeking relief under §307 of the BCZR. Specifically, that section empowers the Zoning Commissioner and Board of Appeals with the authority to grant variances from height and area

DAVID L. COLE (STYGLER) - #85-2-XA

regulations. However, in this case People's Counsel argues that the requested relief is rob from a height and area regulation, rather from use regulations. As such, a variance would not be the proper relief from the mandate of §402.B.1 (BCZR) which requires that an antique shop may not be on a lot smaller than one acre. In this case, it is stipulated by all parties that the subject property is 0.43 acre.

The Zoning Commissioner fully developed this issue in his Opinion and determined that the request for an exemption from §402.B.1 (BCZR) is an area variance. Without restating the reasoning used by the Zoning Commissioner, it is sufficient to state that we agree. Therefore, we affirm the Opinion and Order of the Zoning Commissioner.

Additionally, the Board notes that §1.A.04.3.B.5 of the BCZR provides for the exception to minimum standards for existing lots on parcels. As was stipulated to by the parties, the house on this property is one hundred and fifty years old and the configuration of the property is apparently unchanged for many years. In accordance with the spirit of that regulation, this Board believes that the petitions should be granted and will so order.

For the reasons set forth in the aforegoing Opinion, it is this 3rd day of January, 1985, by the County Board of Appeals, ORDERED that the Order of the Zoning Commissioner of Baltimore County, dated July 9, 1984, be and the same is hereby AFFIRMED.

Any appeal from this decision must be in accordance with Rules

DAVID L. COLE (STIGLER) - #85-2-XA

B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS

Paum

CARL L. GERHOLD PHILIP K. CROSS JOHN F. ETZEL WILLIAM G. ULRICH GORDON T. LANGDON

described as follows to wit:

filed with the Zoning Department.

GERHOLD, CROSS & ETZEL Registered Professional Land Surveyors 412 DELAWARE AVENUE TOWSON, MARYLAND 21204 823-4470

Zoning Description

All that piece or parcel of land situate, lying and being in the Seventh Election District of Baltimore County, State of Maryland and

Beginning for the same at a point on the west side of York Road (Md. Route 45) distant 1400 feet measured southerly along the west side of York Road from the center of Freeland Road (Md. Route 409) and thence binding on the west side of York Road, South 14 degrees 48

minutes East 219.45 feet, South 14 degrees 39 minutes East 11.33 feet

and North 72 degrees 00 minutes East, binding for a part on the south side of an alley, 12 feet wide, 141.94 feet to the place of beginning.

Being the property of the petitioners herein and shown on a plat

The premises being known as 21510 York Road.

Containing 0.43 of an Acre of land more or less.

minutes East 63.53 feet, thence leaving said York Road and binding on the property lines of the petitioners herein, the seven following courses and distances viz: South 72 degrees 00 minutes West 165 feet, North 14 degrees 39 minutes West 33 feet, South 74 degrees 30 minutes West 195.58 feet, North 16 degrees 00 minutes West 38.40 feet, North 73 degrees 20

April 16, 1984

FRED H. DOLLENBERG

W/S of York Rd., 1,400' S of the c/1 of Freeland Rd. (21510 York Rd.)

7th Election District David L. Cole, et ux,

IN RE: PETITION FOR SPECIAL EXCEPTION AND VARIANCES

\* BEFOR THE

\* Case No. 85-2-XA

\* BOARD OF APPEALS \* OF BALTIMORE COUNTY

Petitioners

\* \* \* \* \* \* \* \* \* \*

Entry of Appearance

Please enter my appearance as a party in the above captioned matter, pursuant to Section 501.6, B.C.Z.R., and I hereby request that any and all notices be forwarded to my office, including but not limited to hearing dates and/or preliminary or final Orders.

> arnold Johlon / az Zoning Commissioner of Baltimore County Room 109 - 111 West Chesapeake Avenue Towson, Maryland 21204 494-3353

Certificate of Mailing

IT IS HEREBY CERTIFIED that on this 26th day of July, 1984, copies of the foregoing Entry of Appearance were mailed, postage prepaid, by first class delivery to the County Attorney of Baltimore County, People's Counsel for Baltimore County, Petitioner(s) and/or Protestant(s) in the above captioned matter.

CARL L GENHOLD PHILIP K. CROSS JOHN F. ETZEL WILLIAM G. ULRICH GORDON T, LANGDON

GERHOLD, CROSS & ETZEL Registered Professional Land Surveyors 412 DELAWARE AVENUE TOWSON, MARYLAND 21204 823-4470

April 16, 1984

Zoning Description

All that piece or parcel of land situate, lying and being in the Seventh Election District of Paltimore County, State of Maryland and described as follows to wit:

Esginning for the same at a point on the west side of York Road (4d. Route 45) distant 1400 feet measured southerly along the west side of York Road from the center of Freeland Road (Md. Route 409) and thence binding on the west side of York Road, South 14 degrees 48 minutes East 63.53 feet, thence leaving said York Road and binding on the property lines of the petitioners herein, the seven following courses and distances viz: South 72 degrees 00 minutes Vest 165 feet, North 14 degrees 39 minutes West 33 feet, South 74 degrees 30 minutes West 195.58 feet, North 16 degrees 00 minutes West 38.40 feet, North 73 degrees 20 minutes Past 219.45 feet, South 14 degrees 39 minutes Past 11.33 feet and North 72 degrees 00 minutes East, binding for a part on the south side of an alley, 12 feet wide, 141.94 feet to the place of beginning.

The premises being known as 21510 York Rord.

Containing 0.43 of an Acre of land more or less.

Being the property of the petitioners herein and shown on a plat filed with the Zoning Department.



7th District W/S of Tork Bd. 1,400° S. of the c/l of Freeland Bond (21510 York Boad) David L. Cole, et ur

> 0 CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Location of property: W/S M JMG Road, 1,400 S of the C/l of Freeland Road Location of Signs: West side of Ifthe Road in front of 21510 York Rd.

Number of Signs:

PETITION FOR SPECIAL EXCEPTION: BEFORE THE ZONING COMMISSIONER PETITION FOR VARIANCES "W/S York Rd., 1,400' S of the : ...Centerline of Freeland Rd. OF BALTIMORE COUNTY

DAVID L. COLE, et ux, : Case No. 85-2-XA ::::::

(21510 York Rd.), 7th District:

NOTICE OF APPEAL

Please note an appeal from your decision in the above-captioned matter, under date of July 9, 1984, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

> Thyllis Cole Fuedman Phyllis Cole Friedman People's Counsel for Baltimore County Peter Max Zimmerum Peter Max Zimmerman Deputy People's Counsel Rm. 223, Court House Towson, Maryland 21204

I HEREBY CERTIFY that on this 24th day of July, 1984, a copy of the foregoing Notice of Appeal was mailed to Mr. and Mrs. David L. Cole, 21510 York Rd., Maryland Line, MD 21105; and Mr. James F. Stygler, 519 Piccadilly Rd., Towson, MD 21204, Contract Purchaser.

9/7/84 - Following were notified of hearing set for Thurs. Dec. 6, 1984, at 10 a.m.:

David Cole, et ux James Stygler Phyllis Friedman N. Gerber & J. Hoswell A. Jablon, J. Jung, J. Dyer

85-2-XA

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Rd. (21510 York Rd.) Location of Signs: Front of 21510 York Rd. Date of return: 6-22-54 

NOTICE OF HEARING

Road (21510 York Road)

Case No. 84-2-XA

PLACE: Room 106, County Office Building, 111 West Chesapeake

No. 128299

C 010++++2000010 #204A

Mr. & Mrs. David L. Cole

Maryland Line, Maryland 21105

TIME: 10:15 A.M.

DATE: Monday, July 2, 1984

Avenue, Towson, Maryland

21510 York Road

cc: James F. Stygler

BALTIMORE COUNTY, MARYLAND

MISCELLANEOUS CASH RECEIPT

Class.

OFFICE OF FINANCE - REVENUE DIVISION

519 Piccadilly Road

Towson, Maryland 21204

June 5, 084

Re: Petitions for Special Exception and Variances W/S York Rd., 1,400' S of the c/l of Freeland

David L. Cole, et ux - Petitioners

County Board of Appeals of Baltimore County Room 200 Court House Towson, Maryland 21204 (301) 494-3180

January 3, 1985

Phyllis C. Friedman People's Counsel for Baltimore County Room 223 Courthouse Towson, MD 21204

> Re: Case No. 85-2-XA David L. Cole (James F. Stygler)

Dear Mrs. Friedman:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled

Very truly yours,

Encl. cc: David L. Cole, et ux James F. Stygler Norman E. Gerber James G. Hoswell Arnold Jablon Jean M. H. Jung

James E. Dyer



ARNOLD JABLON ZONING COMMISSIONER

July 26, 1984

Mr. James F. Stygler 21510 York Road Maryland Line, Maryland 21105

Re: Petitions for Special Exception and Variances W/S of York Rd., 1,400' S of the c/l of Freeland Road (21510 York Road)
David L. Cole, et ux - Petitioners
Case No. 85-2-XA

Dear Mr. Stygler:

AJ:aj

Please be advised that an appeal has been filed by Phyllis C. Friedman, People's Counsel for Baltimore County, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Zoning Commissioner

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON ZONING COMMISSIONER

June 27, 1984

Mr. James F. Stygler 519 Piccadilly Road Towson, Maryland 21204

> Re: Petition for Special Exception and Variance W/S York Rd., 1,400' S of the c/l of Freeland Rd. (21510 York Road) David L. Cole, et ux - Petitioners Case No. 85-2-XA

Dear Mr. Stygler:

This is to advise you that \$60.09 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT LDJABLON Commissioner

FROM: Sugan C. Stygler FOR: advertising and posting Case #85-2-XA

PETITION FOR SPECIAL
EXCEPTION AND
VARIANCES
The Election District ZONING: Petition for Special Exception and Variances Location: West side of York Road, 1,400 st South of the conterline of Preciand Road (2550 York Road)

DATE & TIME: Monday, July 2, 1996 at 10:18 A.M.

PUBLIC HEARING: Room 168, County Office Building, 111 W. Chempanto Avenue, Towson Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for an antique shop in a dwelling and Variances to altion for an ansque more in a dwelling and Variances to al-low 43 acre lot instead of the required 1 zers, side yard set-backs of 6.5 ft. and 15 ft. in lies of 50 ft., respectively and a setback of 35 ft. in lies of 75 ft. to the senterline of the To R. to the senterane of the street
Being the property of David
La Cole, at us, as shown an pint plan filed with the Econing Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Cremmissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good eause shown Such request must be received in writing by the date of the hearing set above or made at the hearing.

By Order Of ARNOLD JABLON Zoning Commissioner of Baltimore County
June M CERTIFICATE OF PUBLICATION

TOWSON, MD., June 14 19 19 84 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on June 14

THE JEFFERSONIAN.

Publisher

Cost of Advertising

DATE 7/30/84 ACCOUNT 8-01-615-000 



ARNOLD JABLON ZONING COMMISSIONER

July 25, 1984

Mr. James F. Stygler 519 Piccadilly Road Towson, Maryland 21204

> Re: Petition for Special Exception and Variance W/S York Rd., 1,400° S of the c/l of Freeland Road (21510 York Road) David L. Cole, et ux - Petitioners Case No. 85-2-XA

Dear Mr. Stygler:

This is to advise you that \$60.09 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

Zoning Commissioner

P. S. This is a second reminder. If this bill is not paid immediately, the matter will be forwarded to the Office of Law for collection. 0

PETITION FOR SPECIAL EXCEPTION AND VARIANCES

7th Election District

Petition for Special Exception and Variances

West side York Road, 1,400 ft. South of the centerline of LOCATION: Freeland Road (21510 York Road)

DATE & TIME: Monday, July 2, 1984 at 10:15 A.M.

and Regulations of Baltimore County, will hold a public hearing:

ZONING:

PUBLIC HEARING: Room 106, Count Office Building, 111 W. Chesapeake Avenue, Towson, Liaryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act

Petition for Special Exception for an antique shop in a dwelling and Variances to allow . 43 acre lot instead of the required 1 acre, side yard setbacks of 0.5 ft. and 15 ft. in lieu of 50 ft., respectively and a setback of 38 ft. in lieu of 75 ft. to the centerline of the street

Being the property of David L. Cole, et ux, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

> BY ORDER OF ARNOLD JABLON ZONING COMMISSIONER OF BALTIMORE COUNTY

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IN RE: PETITIONS SPECIAL EXCEPTION \* BEFORE THE IND ZONING VARIANCES W/S of York Road, 1,400' S of # ZONING COMMISSIONER the centerline of Freeland Road (21510 York Road) - 7th \* OF BALTIMORE COUNTY Election District Case No. 85-2-XA David L. Cole, et ux,

Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \*

The Petitioners herein request a special exception for an antique shop in a residence and variances to allow the antique shop on less than one acre. side yard setbacks of one-half foot and 15 feet instead of the required 50 feet, and a setback to the centerline of the street of 38 feet instead of the required 75 feet, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, by their Contract Purchasers, Mr. and Mrs. James Stygler, appeared and testified. Nancy A. Urbanas appeared and testified as a Protes-

Testimony indicated that the subject property, zoned R.C.5, was recently purchased by the Styglers for the purpose of opening an antique shop. The 150year-old home will continue to be used as their primary residence; however, a 25' x 22' area would be used for the shop. The home is located on 0.43 of an acre and faces York Road. There is a 12-foot-wide alley between the instant and the Protestants' property to the north. This alley is dirt and stone i⊈ is apparently owned in common by the two adjoining property owners. There the property line and one-half foot from the alley; it is 38 feet from the Conterline of York Road.

Mr. Stygler testified that the proposed antique shop will be his sole occupation; he is presently unemployed. The proposed business would be a specialty shop, catering to a particular group of interested people, and would be open seven days per week from 11:00 a.m. to 5:00 p.m. There will be only one sign, no more than five square feet, attached to the house and no merchandise will be placed outdoors. The surrounding neighborhood is a mixture of residences and businesses, including a brick yard, carpet store, market, gas station, bar, and post office. Parking will be to the rear of the dwelling via the alley, although parking is also available in front on the paved area which is part of the County right of way.

Mrs. Urbanas opposes the antique shop primarily because of the anticipated traffic through the alley to the available parking. Since there is only onehalf foot from each house to the alley and it is only 12 feet wide, she is concerned that damage will result to her home by the vehicles using the alley. She is planning to construct a chimney which will take up that one-half foot and is worried that cars will strike it as they traverse the alley. Mrs. Urbanas is also concerned that the customers will take up the available parking spaces in front of her home. The Petitioners state that they expect no more than one or two people at any one time in the store and that vehicular use of the alley would be minor.

The Petitioners seek relief from Section 1A04.2.B.1, pursuant to Section and from Sections 402.B.1 and 1A04.3.B.3, pursuant to Section 307, of the Balt Fore County Zoning Regulations (BCZR).

The Court of Special Appeals has noted the distinction between a use varipoce which changes the character of the zoning district and an area variance hid does not. Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. 30 (1974). A use variance allows a landowner to use existing property in a

- 2 -

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manner not permitted by ordinance and inconsistent with uses in the surrounding area. Alumni Control Board v. City of Lincoln, 137 NW.2d 800 (Neb., 1965). An area variance authorizes deviations from restrictions upon the construction and placement of buildings and other structures; it allows modification of area, yard, height, floor space, frontage, density, setback, and similar restrictions. Bienz v. City of Dayton, 566 P.2d 904 (Ore., 1977); Ivancovich v. Tuscon Bd. of Adj., 529 P.2d 242 (Ariz., 1974). An area variance does not affect the use of land and is not associated with the advent of an incompatible use, i.e., the use itself has already been determined to be permitted by right or by special exception. Assoc. for Pres. v. D.C. Bd. of Adj., 384 A.2d 674 (D.C., 1978). In contrast, a use variance generally allows land to be used for a purpose which is inconsistent with the basic character of the area. Conley v. Town of Brookhaven Zoning Bd. of App., 353 NE.2d 594 (N.Y., 1976). It is one which permits a use other than one prescribed by the zoning ordinance in the particular district; it permits a use which the ordinance prohibits. An area variance authorizes deviations from restrictions which relate to a permitted use rather than limitations on the use itself, i.e., restrictions on the bulk of buildings or relating to their height, size, and extent of lot coverage; minimum habitable area; or the placement of buildings and structures on the lot with respect to required yards. Variances made necessary by the physical characteristics of the

Not itself are area variances. An area variance permits deviation from strict on pliance with the law, i.e., the physical characteristics of the premises as as the purposes for which the premises are intended to be used are perbed by the law. Croissant v. Zoning Bd. of Appeals, 442 NYS.2d 235 (1981). variance proposes a change in the character of the premises and involves a se not otherwise permitted. Croissant, supra.

- 3 -

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It is clear that the subject request for a variance from Section 402.B.1, BCZR. for a 0.43-acre lot rather than a one-acre lot as required is an area variance rather than a use variance. An antique shop is a use permitted by special exception and the proposed deviation is from the physical character of the lot. There is no request to allow a use other than what is permitted.

It is clear that the BCZR permit the use requested by the Petitioners in an R.C.5 Zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity of the proposed antique shop. Therefore, it must be determined whether the conditions delineated by Section 502.1 are satisified by the Petitioners.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for should be granted, with certain restrictions as more fully described below.

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioners do not show that the proposed use at the particular location described by Petitioners' Exhibit 1 would have any

adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, √34**3**.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general There of the locality, nor tend to create congestion in roads, streets, or Vallers therein, nor be inconsistent with the purposes of the property's zoning

classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

It is equally clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception and variances should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this quantum day of July, 1984, that the Petition for Special Exception for an antique shop in an R.C.5 Zone and, additionally, the Petition for Zoning Variances to allow the antique shop on less than one acre, side yard setbacks of one-half foot and 15 feet instead of the required 50 feet, and a setback to the centerline of the street of 38 feet instead of the required 75 feet be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

> The special exception and variances granted herein shall terminate upon the sale or transfer of the property to any party not of the Petitioners' immediate

The alley between the Protestant's and Petitioners' property shall be paved provided the Protestant agrees. The alley must be maintained by the Petitioners and the cost of such paving and maintenance shall be their responsibility. If the Protestant refuses to allow utilization of the alley, the Petitioners may file a Petition for Zoning Variance from the parking

3. Any damage to the alley or to the Protestant's home caused by traffic to the antique shop utilizing the alley shall be the responsibility of the Petitioners.

4. The antique shop may be open seven days a week, 11:00 a.m. to 5:00 p.m. only.

5. The Petitioners must insure that no customers to the antique shop utilize those parking spaces in front of the Protestant's home.

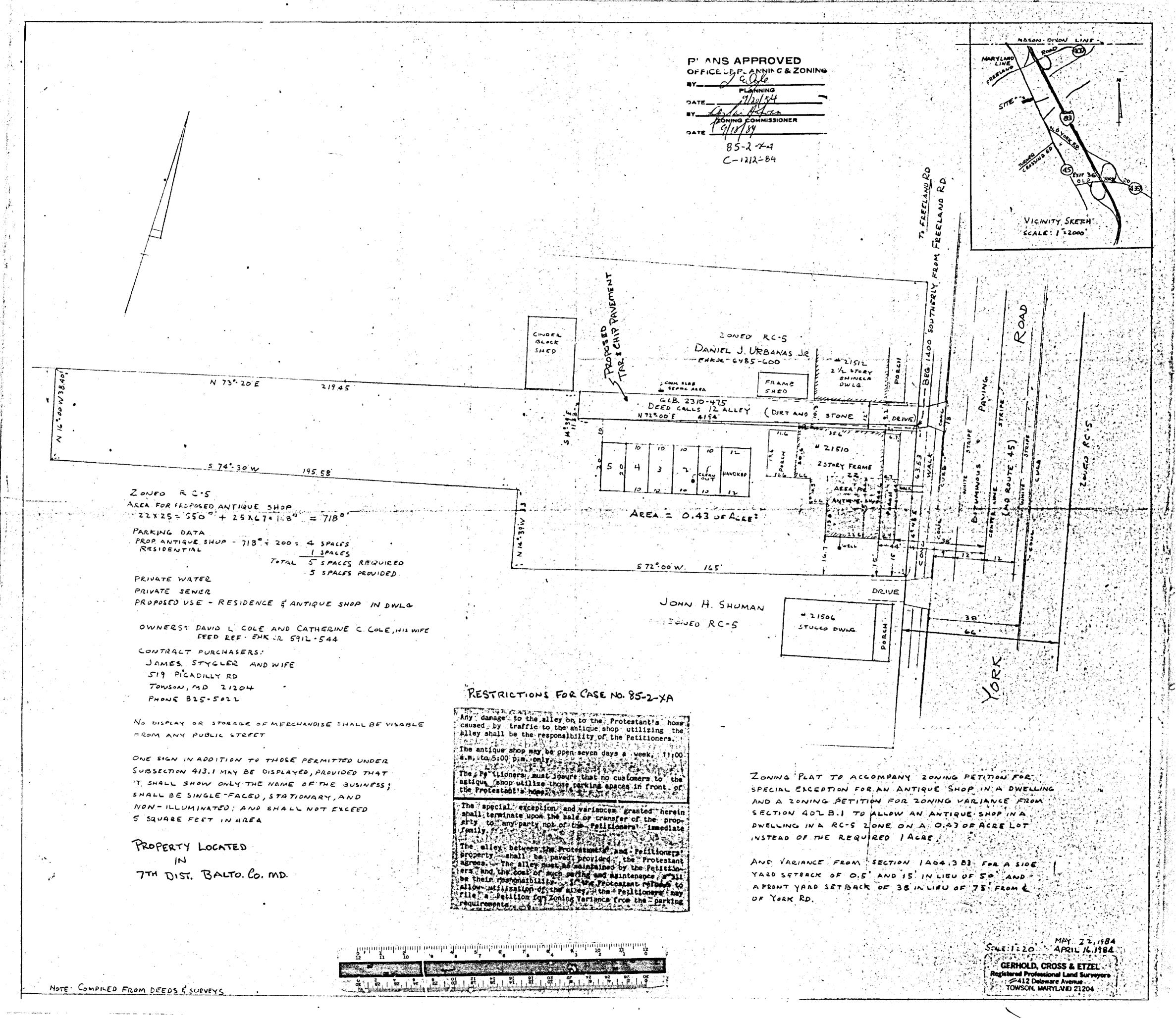
AJ/srl

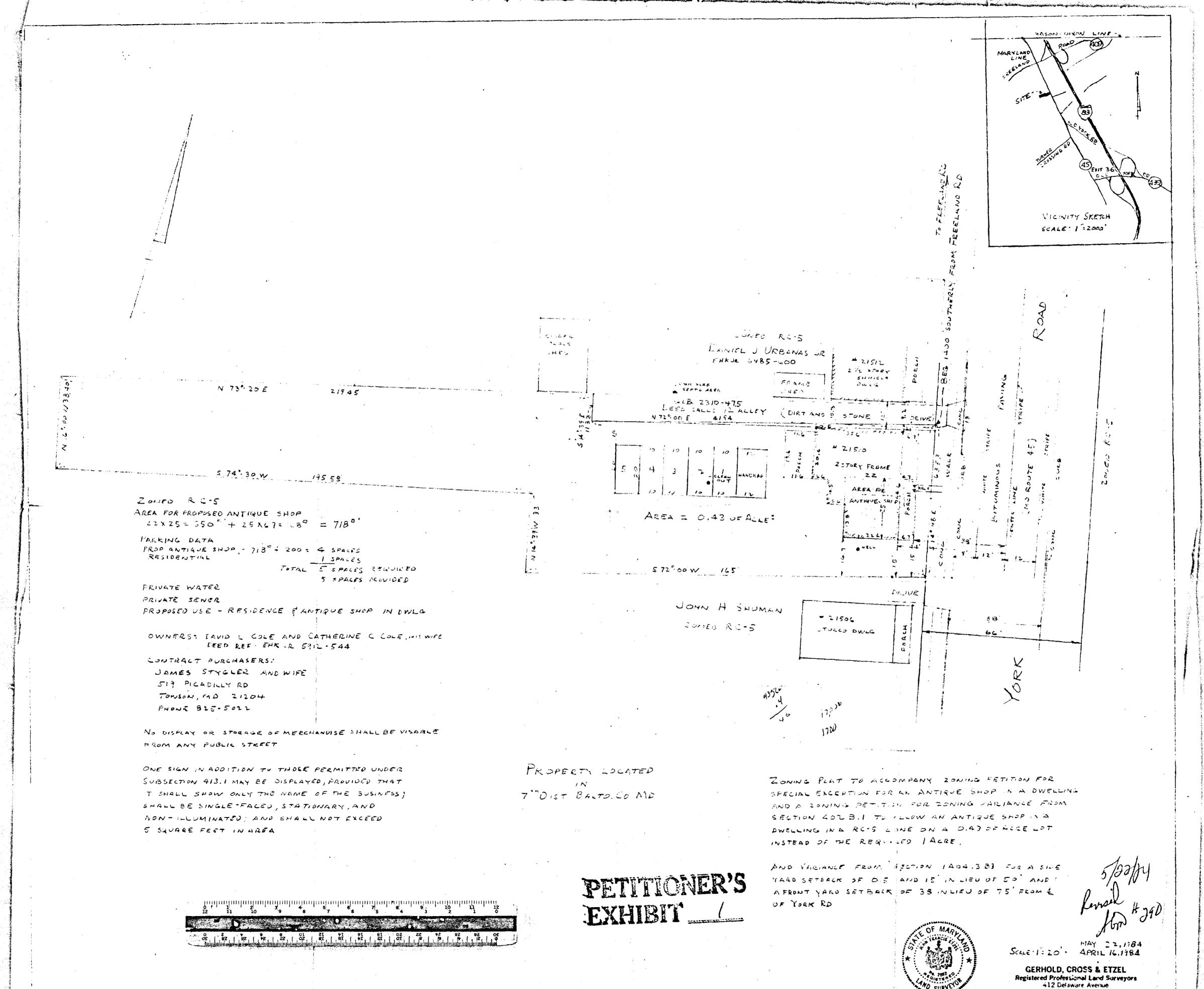
cc: Mr. & Mrs. James F. Stygler Mrs. Nancy A. Urbanas

People's Counsel

FOR RECLIVED ORDER

The same





TOWSON, MARYLAND 21204

NOTE COMPILED FROM DEEDS & SURVEYS

